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Daugherty, Harry Micaiah

Address by the Attorney  
General of the U.S., ...

[Washington, D.C.?]

[1922?]

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Through the President's Office

ADDRESS BY

THE ATTORNEY GENERAL  
OF THE UNITED STATES

HON. HARRY M. DAUGHERTY

—

(AT CANTON, OHIO, OCTOBER 21, 1922)



**"When Law and Order no Longer Remain  
as the Guiding Principles of all Peoples  
and all Institutions, then Civilization  
is Doomed to Atavistic Revolt."**

—

**"The Freedom of Speech Guaranteed Under  
the Constitution is NOT that Freedom  
of Speech which Incites Mob Violence,  
Destruction of Life and Property and  
Attacks on Government."**

—  
"LET US ALL SUPPORT THE GOVERNMENT THAT IS ALIKE TO ALL OF US"  
—

Nov. 6, July 2, 1922.

## "JUSTICE AND EQUITY MUST BE DENIED NO CITIZEN OF THIS GREAT REPUBLIC"

HON. HARRY M. DAUGHERTY

Those charged with responsibility in the conduct of government, even though temporarily in office, should periodically be called upon and be willing to give an account of their stewardship. No politics can be practiced in the discharge of the duties of the Attorney General of the United States without interfering with the proper business of the Government and without discriminating between citizens and classes. This should never be, and it is not done in the present administration.

The people of the whole country are entitled to know accurately and honestly just what is being done in the interest of orderly government and better society. It is impossible, of course, for public officials to disclose all the intricate moves required in the proper management of a department. As in the case of the Department of Justice, for instance, it would be disastrous to make public indiscriminately what is being done in specific instances and cases, or what is in contemplation.

### Important Matters Involved.

I do desire to present in a limited way—limited only because of limited time—several of the most important matters which are now engaging the attention of the Department of Justice

and of your Government. All of us understand that a great Government, such as ours, can have no malice; it must be just, and it must be honest to all alike.

### Steps to Investigate.

I want you to keep in mind that the war ended on November 11, 1918, and from that day until the 4th of March, 1921, responsibility of conducting the vitally important legal business of the Government rested upon the previous administration. The war being over, those in positions of responsibility should immediately have begun the work of settling the affairs of the Government in order that we might forget the horrors of the conflict, ascertain who had been helpful and who had been hurtful, square the accounts, and close the books. Nothing of this character was undertaken. No suits were brought to correct mistakes and enforce adjustments.

Until this administration was installed, no attempt was made to dig out the acts of dishonesty that on every hand were charged, not by those in politics, but by well-meaning persons, regardless of politics, who were compelled to foot the bills. Stagnation prevailed, and multitudinous claims and unadjusted accounts of every caliber and description were piled high in one conglomerate mass when the

present administration came in. Barbed-wire entanglements of modern warfare were simple as compared with the artfully contrived barricades thrown up in concrete form about the countless cases of national and international importance. But no word of criticism is heard of inactivity in this respect, because such conduct suited those who have been the most critical of the Department of Justice since much has been started and much has been done.

#### Duty of the Department.

A great majority of the individuals and a great majority of the industrial concerns transacting business with the Government during the war period were honest in their representations and activities. Others, unfortunately, were not, and it was the duty of the Department of Justice as quickly as it could be done, as quietly and in as dignified a manner as it could be accomplished without sensationalism, to ascertain what transactions were honest and what dishonest; what persons grafted, if any, and who were to be placed on the golden roll of honor and beyond suspicion.

The Department of Justice, therefore, immediately began and is continuing to exercise in the interest of the Government and its people all of its great powers to see that justice may be kept alive. The war fraud cases, under investigation by a corps of experts, representing the best legal minds obtainable within the limitations, and even far beyond the limitations because of their personal sacrifice, fixed in the appropriation for the payment of compensation, will be cleared up as rapidly as human energy can accomplish the stupendous task made so difficult through the complicated and inexcusable confusion attending all such war-time transactions.

#### Voices of Calumny Raised.

Some disloyal and incompetent employees had to be ferreted out and kicked out. The records of the war transactions had to be built up from scraps of paper and the faulty memory of witnesses in many cases scattered over the world. Those who were under suspicion and with guilty conscience had been at work for months and years to prevent the day of reckoning.

Every known method of interference and intrigue had been adopted. There was no limit to their resources. Money improperly and criminally secured in war transactions was more in amount for defense than the Government had for investigation and prosecution by civil and criminal proceedings. The soundbells struck from behind. They hid behind willing or innocent tools, who were induced to make attacks on faithful agents and officers of the Government for the promised consideration of notoriety and spectacular and sensational temporary prominence. They had no regard for the Government; they had no regard for conscience; they had no regard for the character of any man in position, high or low, who in a painstaking way was trying to get at the truth, to protect the good name of the innocent on the one hand, and on the other, trying to get dependable testimony to prove the fraud, if any, and to find who were actually the criminals. No name was sacred, and in fact, no life was safe if it stood in the way of their escape.

#### Congress Aid Invoked.

As soon as we could become acquainted with the persons with whom we were to be associated, the work was begun by the regular force. Others were added as the funds at the command of the department permitted. Without sensational announcement, published notice, or vainglorious promise, the work was thus started. Up to this moment, as the directing head of the Department of Justice, I have never, in public speech or in public print, mentioned the name of a man or a concern under investigation until court proceeding was properly instituted and the records of the proceeding had served as an announcement to the entire world. It is the duty of the Department of Justice to protect as well as prosecute. The department continued to do this important work quietly as long as it was permitted to do so.

As soon as it became known how effectively the work was going on, the storm broke. When all available funds of the department had been exhausted, Congress was asked for financial assistance. It was necessary to pass laws to make it possible to bring certain suits; extra grand juries had to be

provided for so that the investigations might proceed; extra judges had to be authorized in order that the courts might get at the cases expeditiously.

Legislation for this purpose was compelled to take its course, but was hurried as rapidly as possible, and the last bill necessary for the prosecution of the department's fraud work has only recently become a law. The request for the appropriation of half a million dollars for use in this particular work was made of Congress at the very time when accusation and calumny, like poison gas, were being used to prejudice, to interfere with, and to defeat the purpose of the work. Yet at the time the storm broke and reached its greatest fury, sufficient facts had been quietly presented to the committees of Congress to justify the appropriation asked for, and Congress made the appropriation without a single dissenting vote on either branch, thus giving the full initial amount requested for the purpose of paying the expenses of conducting the work.

#### Enemies Behind Smoke Screen.

The opposition of the crooks was conducted behind a smoke screen of calumny created for their own escape, and the real reason for the attack was, in every instance, withheld. The very men against whom both civil and criminal proceedings have been brought were using the ignorant and the notoriety seeker to make charges in the open that nothing was being done by the Department of Justice. The real reason for their activity was the fact that things were being done. What did any man's reputation, his character, his life even, amount to if it stood in the way of their corrupt defense? But we have gone through it all, and still we are not afraid, and we will go on.

A congressional investigation was demanded. Why? Because they could then, as they thought, disorganize us and compel us to produce the evidence prematurely and thus dissipate the Government's efforts to bring and try the cases in a dignified, orderly way before the courts of justice of the country. They have tried for months to force an investigation and trial of these cases before congressional committees that have no judicial authority, and in the daily press. This we have

not done. This we will never do, no matter what the temptation, and no matter what the provocation, unless under the direction of Congress, as expressed by duly authorized legislation, we are compelled to scatter to the four winds the facts and evidence of the Government which would enable the guilty to escape civil and criminal liability.

#### No Turning Backward.

We are going back to the day, thank God, when there is some hope and expectation that the world and the country will be in order, and precedent well and long established, will be followed for the adjudication of differences between citizen and Government. It will take time and it will take patience. The work will be done, and it will be done as thoroughly as human agency can do it.

The Government will never answer any attack made upon the responsible heads of its departments except in the orderly process of our dependable courts. The Government will not play into the hands of those who hope to be the undeserved beneficiaries of a premature showing of the hand of the Government in transactions which it is the Government's business to investigate and rectify.

More than four hundred separate and distinct cases of tremendous magnitude, representing billions of dollars, now are undergoing a process of what might be termed liquidation. Recoveries will be made; many settlements will be made and have been made; and many transactions will be terminated successfully. I will not make promises that I do not think can be kept, and I want to say to the American people that the great, unjustifiable financial loss, even considering the ravages of war, which the Government was compelled to sustain, can never be recovered, because, when the story of these contracts and transactions are truthfully written in the records of the Government, as they will be, it will be found that the greatest loss resulted from improperly made contracts wherein the interests of the Government were not properly protected, and improvident settlements too speedily made, and made without judgment, and made carelessly, recklessly, and possibly preferentially, but where actionable fraud, dishonesty and conspir-

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acy can not be specifically proven—all of which is necessary for conviction, and in most civil cases necessary for recovery.

#### Millions Squandered.

We are not picking at small things. We will only complain where complaint is justified. Many facts and disclosures attending this investigation indicate that hundreds of important contracts were entered into by the Government with great corporations and manufacturers without proper examination of conditions or requirements; without exercise of sound judgment; with carelessness and laxity that reflect no credit upon those agents of government entrusted with authority to negotiate such contracts. Billions of dollars were squandered through this class of contracts—billions which never can be recovered.

United States attorneys throughout the country now have before them approximately one hundred and fifty cases dealing with fraud in war time transactions, and they are progressing with court action as rapidly as conditions permit. In Washington, indictments already have been returned against thirteen men who have been charged with complicity in attempts to defraud the Government at a time when all of our resources were so urgently needed for the prosecution of a war in which our sons by the millions were braving death in all its horror on the battlefields of Europe. Other indictments will follow in due course. It takes work and time, and several cases require more than a year and a half for preparation and investigation.

#### Caution In All Details.

I should like for the American people to know how painstakingly careful this investigation is being conducted. Attorneys who neither know nor have now, nor ever have had, any connection with those involved in the cases under investigation, are endeavoring with all their skill to reach just, impartial, and scrupulously honest decisions in each individual case. When these separate cases are completed they are referred to what might be termed an advisory council, or court, which is composed of three of the most eminent legal scholars in America, who, after they have passed judg-

ment, present their findings to the Attorney General.

Despite the infinitely careful research and analysis, the balancing of every element entering into the transactions, the sifting and sorting of facts and allegations and superficialities, by trained and competent agents of Government who have spent months on their task—despite all this, the Attorney General and his advisory board again go over in detail the merits of the cases before final decision is reached as to how they shall be disposed of and to see that justice is done the Government and no injustice done anybody.

In the shortest space of time in which it can be accomplished, every case will be closed. Reports will be written covering every detail, omitting nothing which in the name of justice should be contained therein, and then, when the Government has done its duty, whether by court proceeding or by civil settlement processes, these books and records will be sealed, this horror and scar upon our national life will be erased for all time, and it is my ambition to see terminated this tremendous task in such manner that there may be inscribed upon the back of each volume of the record and upon the title page of each volume the words, "Truth and Justice."

#### Origin of Criticism.

There has been criticism, naturally, of the Department of Justice, and of those who faithfully have sought to serve the Government with all the honesty of their being. I refer not only to the Attorney General himself, but to those loyal and devoted officers of Government who have in silence suffered bitter and infamous charges, but whose armor, when all has been said and done, will have stood the test of faith and confidence of the people of this country.

How futile it would be for public officers to respond to every demand of the curious, to reply to subtle innuendos and criticism, to attempt to appease the curiosity of those who would seek to learn if they or those with whom they are allied are under investigation or likely to be investigated. It is this class which indulges in criticism and attempts to throw up about every department of Government and

every official in responsible position a cloud of distrust and suspicion.

We would have heard little criticism of the Department of Justice had it not been discovered that a case like the Chemical Foundation, for instance (in which valuable patents were assigned by public officials to companies which they themselves had organized), was under investigation, and the part played by those involved also was being scrutinized carefully by Government agents.

#### Insidious Propaganda.

And let me here, without giving any intimation as to who the men were, let me suggest that I have had the unique experience of sitting in the Department of Justice and listening to the story of a man formerly connected with the Government and hearing patiently his pleas for certain fairly legitimate concessions, when, at the same time, in the city of New York, another former official, one of his associates, was busily engaged in getting contributions and making connections in order that the attacks upon the Department of Justice and the Government might be increased, reinforced, and successfully continued.

I can give the names of these parties if ever they lift their voices to dispute this statement, but unless I am authorized by them so to do, I should like to go through this entire investigation without prematurely mentioning names except in the orderly process of court proceedings. Their names, however, will be found in connection with certain litigation wherein some of the most important questions and some of the most questionable transactions and some of the most valuable properties in the world are in dispute, and the right and wrong of the transactions connected with the transfer of certain property, must be determined in a court of justice.

#### Accomplishments of Department.

Now, that you know the obstacles ever in the path of those officers of Government who would do their duty honestly and faithfully, is it surprising to you that public servants so often are vilified with the most bitter and contemptuous language? But as long as Government lives, as long as chosen leaders of peoples perform the tasks set out for them fearlessly and with all the honesty of their being, there

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still will be some few who would attempt to breathe scandal where no scandal lurks, to find fault where no fault exists. To attempt to combat this sort of thing would be as futile as the heroic exploits of Cyrus who employed a whole army to revenge himself of the river Gyndas for the fright it had put him to in passing over it.

I could not in volumes give a full account of the accomplishments of the Department of Justice during this administration, but if I may, I want to give a glimpse of a few of the problems disposed of or under consideration at the present time.

During the past year, civil suits to which the United States was a party were instituted to the number of 8,646; more than 8,000 were terminated. There are now pending in the courts something like 12,000 cases.

More than 60,000 criminal prosecutions were begun. During the year 53,000 were terminated. There are now pending more than 64,000 cases.

From these prosecutions and adjudication of cases brought under the present administration, nearly FOUR AND A HALF MILLION DOLLARS were realized by the Government from the civil suits alone, while fines and penalties to the amount of THREE AND A HALF MILLION DOLLARS were realized, making a total of nearly EIGHT MILLION DOLLARS.

#### Costs of Administration.

The total appropriation allotted for the conduct of the Department of Justice for 1922 was \$19,000,000.00. How trivial this sum would seem when it is remembered that in 1913, for instance, the enormous sum of \$11,000,000.00 was appropriated for the Department when the problems were infinitesimal as compared with the issues of towering magnitude to-day. It must be understood that the Department of Justice is now cleaning up the war debris and the department has at least ten times as much work and business as it ever had before.

Another administration accomplishment, one which is most gratifying, was the enactment of legislation which made possible additional judgeships. Our courts are clogged, but now, with twenty-four additional trial judges, the Nation may look forward to the expediting of cases which long since should have been disposed of. On

June 30th of this year there were in excess of 172,000 civil and criminal cases pending in the Federal courts of the United States.

The American people must be protected by its courts. One particular issue which it shall be my privilege to force will be the disposal of approximately 480 cases developed through postal frauds, and which are now pending. These cases, now in the hands of United States attorneys for institution of criminal proceedings, represent the fleecing from the public, widows, old men, and even children, of the enormous sum of \$140,000,000. These scheming and vulturous users of the United States mails shall be brought to trial, and the humble citizens victimized shall have the satisfaction of knowing that the Government is as determined to see that their cases get as much attention as the cases in which the great and mighty are involved. Equity and justice must be denied no citizen of this country, now, or hereafter, if our courts and our public officers are to enjoy the continued confidence of the people.

#### No Apologies to Offer.

From the birth of this Republic to the present day the American Government has never shirked its duty to, nor felt constrained to apologize for any action or step taken in the interest of its nationals and its industries. Nor shall the Attorney General of the United States now, or hereafter, apologize for any act of his which provides protection and establishes more firmly those bulwarks of human liberty and justice to which the American people are so bountifully entitled.

No more sacred trust is placed upon Government or man than that which looks to the preservation of the traditions and ideals of enlightened civilization. And when basic fundamentals of our national welfare are threatened, when conniving and vicious elements seek through menacing doctrines and destructive acts to undermine the faith of the people in their Government and those officials who have been chosen by mandate to guide and guard with all the honesty and fearlessness of human courage, the laws of God and man, then I say that the time has come when eternal vigilance not only becomes a precaution, but a duty on the part of mankind.

If American institutions are to endure, they must be surrounded and buttressed by all the protective forces known to ingenuity of man.

#### Labor and the Government.

I am not now, nor have I ever been, an opponent of honestly conceived labor organizations and trade unionism. If I were a skilled worker, in mill, factory, or mine, I would join a union, but I would never affiliate with a union that sets its laws and its constitution above the laws and Constitution of my country. In a great Industrial Nation such as ours, labor organizations are necessary, but they must be the right kind of unions under the right kind of leadership.

Labor must be constructive and not destructive. There must be loyalty to employer, to the Nation. The radical and unscrupulous leader and those elements which make up the agitator type must be eliminated from our national life. They menace the whole system of trade unionism, and for its own protection organized labor must banish them from its ranks. The advocate of violence in our national and industrial life must go. And the word of labor everywhere must be as good as its bond.

If those who come to this country and become naturalized citizens, that they may enjoy the benefits the country affords to all alike, are not satisfied with our laws and our form of government, then they should as rapidly as possible denaturalize themselves and return to the country under whose laws they did not care to live, but whose theories they would attempt to exploit upon us.

#### The Chicago Injunction.

I am not altogether sure but that we have reached the point where, for the safety of the country, every foreigner coming to our shores should be met at the dock and impressed with the fact that he must, before naturalization, in some effective manner prove his worthiness to citizenship in this great Republic. As it is, too many of those entering our gates are met at the port by the professional parasite and advised that the only prerequisite to American citizenship is membership in this or that organization—organizations which are dedicated to the de-

struction of the very freedom which the immigrant hopes to enjoy.

One of the most important steps taken by the Department of Justice in the interest of the American people was that in connection with the injunction proceedings at Chicago that reestablished justice and individual rights in America. The railroads of the country are compelled by law to furnish interstate commerce for the country. It is the duty of Government to see that this obligation is performed according to the letter of the law. The roads were attempting to keep interstate commerce alive, but conditions had reached a point where this was made impossible through lack of skilled workers, deterioration of equipment, and other conditions brought about by the strike of 400,000 members of the Federated Shop Crafts Unions.

The Government acted. It was a duty, not to labor, not to the railroads, but to the American people and to the Government itself. More than 17,000 affidavits from every section of the United States concerning anarchy bordering on civil war furnished convincing proof that the people needed the protection of their Government as never before.

Bear in mind, that I did not undertake this proceeding as a partisan or as the advocate of the railroads. As between the railroads and those with whom they were in conflict, considering the matters in dispute, I was neutral, and I took no action on behalf of the government until it became apparent to the entire country that interstate commerce and the carrying of the mails were being interfered with to the extent that our people and our industries were being materially affected. In fact, more than 1,000 mail trains had been withdrawn from service.

#### Economy in Expenditures.

Was the Government interested? The Department of Justice alone spent probably a million and a half dollars in seven weeks, as economically as it could be used, to keep down strife and preserve order in its neutral capacity between the contending parties.

In the last half of August it was evident to all that the situation was growing worse, and it was solely in the interest of the entire people, the

maintenance of commerce, and the carrying of the mails, furnishing food and fuel, that the Government performed its duty when it brought action to restrain those who were interfering with transportation and threatening the life of the Government. It may truly be said that the transportation crisis through which we passed came dangerously near imposing a veto upon the economic readjustment of our national life.

When the heads of the Federated Shopcrafts Unions called their strike, the men who walked out were in revolt against a twelve per cent reduction in wages authorized by the Railroad Labor Board, the quasi-judicial body charged by Federal law with the duty of fixing railway wages. This move was a complete renunciation of the Esch-Cummins law, which afforded them special protection as to wage status by providing that all disputes concerning basic wage conditions and working rules should be referred to a Federal tribunal representing the roads, workers, and the public.

#### Fair Wage for Labor.

Thus, with one bold challenge to constitutional government, the strike leaders, to all apparent purposes, renounced the protection of governmental authority when they mutinied against a decision which they construed to be unfavorable to their cause.

In practically every other industry in this country and throughout the world war-wage scales had been abandoned, but union leaders demanded continuation of wage inflation at the war peak.

The Government and those chosen to safeguard its integrity and constitutional rights, believe that labor deserves and should enjoy an equitable wage scale. On this issue there is no quarrel between labor and Government.

More than forty million wage earners in this country depend upon organized government for livelihood, and protection of their interest ever constitutes a source of deep concern to Government. In the industries alone some thirty million toil in mill, factory, on public carriers, and in the mines. Of this number organized labor claims a representation of five or six million.

When certain rail workers were instructed by their leaders to lay down their tools, four hundred thousand of the one million six hundred thousand men employed by the carriers, walked out in defiance of the law. A certain conspicuous union leader immediately suggested that a sympathetic or progressive strike was being considered, which would involve other crafts which had remained loyal to the carriers, themselves, and to their country. Attempts were made by strike leaders at this juncture to justify their stand by subtle intimation to workers that further wage reductions were contemplated by the Railroad Labor Board. But fundamentally the revolt was against the twelve per cent wage reduction.

Neither Punic cunning nor the vociferous ranting of those who had determined to crush any conciliatory spirit that might exist among the army of wage earners thus arbitrarily ordered into idleness could disguise the facts behind his revolt against government.

#### Failings of the Labor Board.

Now a year back this same governmental board whose ruling now was branded as an "infamous injustice to American workmen" had, in its Decision No. 2, directed a substantial increase in the wages of rail employees. The carriers submitted, though they complained that labor costs had increased 115 per cent in comparison with 64 per cent increase in revenues made possible through higher rates granted by the Interstate Commerce Commission.

From a period of distressing inflation and soaring prices the country had passed into a period of severe deflation, and the labor board, in effect, through its ruling No. 1036, of June 5, this year, had decreed that, in view of reduced wages in other industries, railway wages must of necessity be made to approximate them, if readjustment of our economic and industrial life was to be accomplished.

But the die was cast and labor's legions marched in solid phalanx from beneath the protecting bulwarks of constitutional law at the command of their leaders.

Industrial paralysis, human suffering, and irretrievable losses confronted the nation as train after train was laid off. Cessation of traffic was destroying the arteries of trade and com-

merce. Government, industry, society, and labor itself realized that the helpless millions jammed into the great centers of population were dependent upon transportation for food—for life itself. But the upheaval went on. Sporadically tales came out of the west, the southwest, and the south and from our northern border states of derailments, maiming, sabotage, and even murder.

#### Faced By An Economic Crisis.

Just a year back more than five million men and women were walking the streets of our cities, jobless, hungry, and despondent; but now they were at work, through the sound operation of constructive government. The coal strike, which had spread over five months, was nearing final settlement, and 600,000 miners and their families were about to return to work, contented. But anew there loomed upon the horizon of a prosperous government and a happy people a crisis which stunned the nation—a crisis which threatened not only economic and industrial depression, not only a recurrence of idleness among our wage earners, but the country's transportation systems, upon which all elements alike must depend for orderly government and those things which must hold together the human fabric.

Out of Philadelphia came the mandate of one of the heads of the shop crafts in that district, and which appeared to reflect the attitude of other leaders, that—

"We will tie up every train, both freight and passenger; every ferry boat and every railway shop, and not a wheel will turn anywhere."

Government was being mocked and pilloried in scorn. Appeals were being made to Washington by countless thousands of American citizens. Scarcely a community in any part of this broad, free land was being spared the iron heel of terrorism. Depredation of property was in full swing, and human life was anything but sacred. All the great transcontinental systems were jeopardized, and the Interstate Commerce Commission, after infinitely painstaking surveys, had found that the rolling stock and equipment of the afflicted roads were so seriously impaired that FIFTY PER CENT of the locomotives in use were unfit for service and many were out of commission entirely.

The nation was in the grip of civil war. We had reached a point where loyal, intelligent Americans wondered if organized government actually existed in this free land of ours—or a land presumed to be free and consecrated to observance of law. Criminals of the vilest type, apostles of the ultra-red variety, and crafty power-lusting missionaries of discord mingled in the attack upon life, property, law, and government.

#### Firm Step Necessary.

Then, when all conciliatory efforts on the part of trusted government emissaries had failed, when court proceedings in practically every district in the United States had been instituted by the railroads to safeguard their property and prevent willful and malicious interference with the orderly operation of their lines, when men were willing and anxious to work if permitted to do so, when the heads of the strikers had called upon the men who had deserted their tools and shops at their dictation to do "THEIR DAMNEDEST AND THEN SOME"; when human suffering and hardships were beginning to leave their impress upon the innocent and helpless public, when transportation was impaled FIFTY PER CENT OR MORE, and the country was stung to a fury, the time had arrived when national security no longer made it possible for government to stay its hand. A decisive and firm step was essential to the preservation of American institutions, its people, and the basic principles of government itself.

#### Moral Suasion Ineffective.

Moral suasion up to this point had fallen upon deaf ears. Finally both railroad executives and shopcraft heads appealed to President Harding to use his good offices in an effort to adjudicate the differences between the two elements. In the most patient and painstaking way the President's great genius as a human harmonizer was put forth, but by the latter part of August his efforts had failed to receive the consideration to which they so rightfully were entitled. The President appealed to the striking workers, without denying their right to strike, though I may say on my own behalf, considering the fact they had submitted their dispute to the Railroad Labor Board, they had no moral right, at least, to repudiate that arm of the

Government by refusing to abide by its decision. Appeal to the railroad executives received no remedial response. Reconciliation appeared to be impossible between the conflicting hosts, though the Government and its highest officers had expended every ounce of energy and brain force to persuade opposing leaders to compose their differences.

Railroad tracks and terminal shops of the country were in control of men who were undertaking to prevent other workers performing duties necessary to the free flow of interstate commerce. Demagogic and violently bitter disciples of force and anarchy worked in open sympathy with those who would paralyze transportation and stultify government. For no industrial dispute of mammoth scale in this country can survive without the contribution of this criminal class which revels in vandalism and thrives off the bounty of strike managers, who, perhaps oftentimes innocently, are inveigled into accepting their support.

#### Immediate Action Demanded.

Could Government therefore be expected to remain supinely indifferent when its authority was challenged and threatened by class as deadly as armed strife itself. I say NO, and every thinking man with love for his country and his fellow men, will say NO as vehemently as I do.

When Government falters, when its chosen leaders neither know nor respect their duty, when law and order no longer remain as the guiding principles of all peoples and all institutions, then civilization is doomed to stavistic revolt. Thus fell Rome and Athens, and thus passed the Middle Ages and the Renaissance, but America was neither to succumb nor surrender to those elements which sought to destroy the traditions and ideals upon which her forefathers had builded a Nation of justice to all mankind.

What was the Government to do? The only logical answer and the only effective measure possible was an appeal to the courts for a restraining order, restraining those responsible for this condition of affairs from further interference with interstate commerce.

Before discussing the features of, and the intent of an injunction, let me say that the injunction proceedings at



Chicago were instituted under the provisions of the Sherman law, the same law which twenty-eight years ago was invoked by President Cleveland in the so-called Debs strike, when Federal troops were marched into Chicago by the thousands, and the same law employed by my predecessor during President Wilson's administration in a controversy wherein coal miners and operators were involved at Indianapolis. Cleveland, it will be remembered, was denounced as a despot and tyrant by sniping demagogues who scorned our Constitution and laws. But this was Cleveland's greatest public service.

#### The Sherman Act.

Section 1 of the Sherman Act declares that—

Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is hereby declared to be illegal. Every person who shall make any such contract or engage in any such combination or conspiracy shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine not exceeding five thousand dollars, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

Section 4 declares—

The several circuit courts of the United States are hereby invested with jurisdiction to prevent and restrain violations of this act; and it shall be the duty of the several district attorneys of the United States in their respective districts, under the direction of the Attorney General, to institute proceedings in equity to prevent and restrain such violations. Such proceedings may be by way of petition setting forth the case and praying that such violations shall be enjoined or otherwise prohibited. When the parties complained of shall have been duly notified of such petition, the court shall proceed, as soon as may be, to the hearing and determination of the case; and pending such petition and

before final decree, the court may at any time make such temporary restraining order or prohibition as shall be deemed just in the premises.

#### Compared With Clayton Act.

The Clayton Act contains a similar provision, but the Clayton Act does not modify the Sherman Act in a situation of this character where the Government itself is a complainant and where interstate commerce is involved.

A temporary restraining order or injunction such as was properly and legally granted in the recent case probably would not be authorized in a similar contest between employer and employee, or in strikes in industrial enterprises upon which the Government does not depend to aid it in maintaining interstate commerce and the transportation of the mails.

What is an injunction? Radicals and other obsequious sycophants, supported by that infinitely small portion of the press which depends for its circulation upon sensation and socialism, would have us believe that it is a modern device, a recent discovery. The injunction is the most humane, the most charitable, and the most prompt and effective civil proceeding known to law. Violation of an injunction may be punished by the court issuing the injunction, but the violator has a right to stand before the court, assert his right, defend his act, and be judged guilty or guiltless, as the court may determine. When a set of men are unwilling to abide by the decision of the court, they should be forced to do so, and when they no longer can be forced to stand before the bar of justice, then Government ceases to exist.

#### Injunction As a Remedy.

Further, an injunction is the laying of the hand of the Government in an admonishing and restraining way upon the shoulder of the man who is about to commit a crime, warning him and ordering him to stay his hand and hold his wrath and desist from committing a crime and becoming a criminal. If he stops, no crime is committed. If there is a dispute as to his right, he is given a speedy hearing before the court, which answers finally the question of right and wrong, justice and injustice.

The injunction is a remedy that has in one form or another existed throughout the entire period of civilization. It is as old as the common law itself, and held an important place in the protection of legal rights under the Roman law. Self-help, or the impulse to take the law into one's own hands, which the history of civilization shows to degenerate into mob violence, if left unrestrained, is the alternate course of conduct which all through history has run parallel to the efforts of organized society to protect rights and redress wrongs by a Government of law and order.

Even under Governments firmly established, the primal impulse asserts itself at times to take the law into one's own hands. Hence, the functions of courts have been not only to redress wrongs already committed, but to protect rights, and by writs of injunction forbid a threatened course of conduct in advance of the actual invasion of the right. The injunction is fundamental in every system of jurisprudence worthy of the name that has been devised for the protection of human rights. A fundamental principle of English law is that "Where there is a right, there is a remedy." Running along with the legal maxim is another old adage, "An ounce of prevention is worth a pound of cure," and the common law system found the writ of injunction effective for accomplishing its purpose.

#### Protection From Crime.

The injunction further saves a man from becoming a criminal. It protects the rights, not only of government itself, but of all the people, pending final judicial adjudication. It was the mildest form of procedure that could have been adopted in this case.

If the injunction were not resorted to, what was the next thing the Government could do after all efforts at voluntary and peaceful persuasion had failed? Step aside and let violence continue, let the mob grow in fury and in numbers; let the leaders with torch and bomb and dagger continue destruction of life and property? Could the Government permit itself to be weakened to a point where, after commission of hideous crimes by unrestrained hordes of violators of all we hold sacred, it would find itself impotent to adopt the policy it did?

Is it not better to prevent a man from committing a crime than to encourage him to become a criminal? Is it not better to restrain him by the gentle hand of the law in a kindly but impressive way than to let him go along to his own destruction? Is it not better to have men again at work, as they now are, than confined in jails, as many of them would be had this injunction not been issued?

Another step the Government could have taken was to have called out Federal troops. That would have been a sorry day, but it would have been done had necessity compelled. Appeal after appeal had come to Washington for troops, but armed troops were withheld. Who will say that it is not better to lay the hand of government, with its restraint, its admonition, and protection, on the shoulder of the citizen, than to call out troops to shoot him down, and, as is always the case, mingle his blood with the blood of innocent bystanders and bruise the hearts of his loved ones?

#### Rights of the Minority.

In such a situation, if none of the steps referred to were taken, then Government would cease to exist in name as well as in fact; the people would become the prey of human vultures, anarchy would permeate the land, and mob rule would become the law.

We hear quite a little about the rights of the minority. A minority in this country has greater rights and is protected to a greater extent than in any other country in the world. But a minority has no right to deny to the majority the right it claims for itself. The minority has no right to promote civil war, impoverish a nation, deprive a people of those things to which they are entitled under the law, or to ignore and seek to withhold from the majority rights as equal as those enjoyed by the minority.

I hear no great cry on the part of the Nation's "mentors" as to the rights of the majority. It would seem from observation that there is a broad impression on the part of the doctrinaire and their ill-advised and sycophantic followers that the majority is subservient to the will of the minority, and the minority is subservient to the will of the radical, and that the radical

may be led by any person who comes to our shores and undertakes to lead the American people into a pathway of fire and flame and chaos, intimidation, coercion, and disloyalty.

#### No Voice Against Crimes.

When the Chicago injunction was granted there was a hue and cry on the part of this radical element that the freedom of speech was being interfered with. It has been my privilege to read and hear, since the granting of the restraining order, great volumes of criticism, unfounded, of course, which in itself would seem to indicate sufficient proof that the freedom of speech neither has been interfered with nor abridged in any respect.

It must be remembered that the freedom of speech guaranteed under the Constitution is NOT that freedom of speech which incites mob violence, destruction of life and property, and attacks on Government. That is NOT what our forefathers intended by vouchsafing freedom of speech and liberty of press.

May I call the attention of the law respecting citizens of this country to the fact that no frenzied voice was lifted by these same pedagogic pawns of profligacy when law-abiding American citizens by the hundreds, all over the land, were dragged into the mire of the woods, stripped of their clothing, and there left; when almost as many, according to prearranged schedule, well carried out, it seems, by somebody, were tarred and feathered, when others were thrown into streams and their clothing destroyed.

Where, it might be asked, were those frenzied voices now crying out for freedom of speech and liberty of press, when the loyal engineer and his crew, in the dead of night, faithful to their service and their country, pulled twelve Pullman cars across the continent only to be suddenly switched into eternity without a moment's notice by the vandal and murderer who pulled the spikes and threw the switches that murder might contribute to the cause of anarchy, and anarchy might destroy government?

#### Faced Critical Period.

Where were those frenzied voices when train after train, loaded with men, women, and children, were ruthlessly and criminally abandoned by

those in charge as a part of a conspiracy, and left in the hot sands of the Santa Fe, with food and water scarce, comforts few, fright surrounding, even birth taking place—left to the tender mercies of Providence, and the Government of the United States, if those responsible for the conspiracy were not successful in destroying it?

Where were these frenzied voices when one hundred million dollars worth of produce raised in the State of California alone was left to rot because the railroads were not permitted to transport it to the consumer because of a quarrel between a small percentage of the citizenship of the United States?

Where were these frenzied voices when that horrible thing occurred at Herron, Illinois, that will forever be a blot upon the community and the Nation?

We had reached the time when, if necessary, people of this country, in order to protect their homes, perpetuate their liberty, and be guaranteed the right to work and earn and save, were about to be called upon to write in human blood a new Declaration of Independence and a new declaration of human rights and liberty.

#### The Right to Strike.

Men have the right to strike: surely this proceeding does not destroy that. Men have the right to work: surely this proceeding insures that. There is no involuntary servitude in this country, but slavery consists as much in depriving a man of the right to work as in compelling him to work against his will.

The fact of the matter is, that under the circumstances and evidence existing and proved in the case at Chicago, had the Attorney General not complied with the provisions of the law by taking the action he did, he could have been impeached, and any Attorney General failing or refusing under similar circumstances to do precisely what was done, should be impeached.

There will be no backward step in the policy of the Government as at present organized. I know that unless legislation prevents, if established policies prevail, if the courts are not destroyed, if duty is performed by those in positions of authority, all will be treated fairly in this country, labor and capital alike. I think we have reached the day when it may truthfully be said

that we have seen in the United States the last extensive strike involving the tying up of transportation.

In conclusion, I want to say another word here to labor. As truthful a statement as any I have made in this address, I now make: I am your sincere friend and will not deceive you, but you make a mistake when you set up rules in conflict with the rules, laws and constitution of our common country, which rules and laws and constitution are applicable to every other man in every other employment, and must, for your own security and safety, be applicable to you.

#### Security in the Constitution.

Your principal trouble lies, and your greatest danger is, in the radicalism and character of some of your most prominent leaders. Your security lies in the Constitution of the United States and in the laws of the United States, and in the good opinion, by you deserved, of all the American people. There should be no quarrel between labor and the Government.

A few irreconcilable railroad executives, who insist upon calling themselves "hard-boiled," might also, with considerable benefit to the country, be dispensed with. The fault is not all on one side, but at a time when strife that was almost civil war raged in this country, the Government, having the right to do so, insisted upon the railroads performing their necessary func-

tions to serve the people. Those in conflict with the railroads interfered with the performance of this service, and it was to protect the rights of all the people, strikers and employers, and every man, woman, and child in the country, that the Government in its rightful capacity took a hand.

#### Full Responsibility Accepted.

I accept my full responsibility for the step taken, and though it temporarily shocked because of the sudden halt of circumstances, do the same thing again or feel incapable to speak for an important branch of the Government and unworthy of the confidence and trust imposed in me by the President of the United States.

Let us all love and support the Government that is alike to all of us. The picture is not all dark. The country is secure, the Government is dependable, the rights of the people are safe. The best proof of that fact was when a dignified court, exercising jurisdiction with courage and fairness, issued a restraining order to prevent the destruction of government, the taking of life, and the sacrifice of property. All turned to the warning, and peace and quiet, and thought and judgment, again reigned, and when I saw that, and when you saw that, well might we say, in the words of another great Ohio President, "God reigns and the Government at Washington still lives."

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